



[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2014-0237]

Delegation of Authority

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Revised Delegation of Authority

SUMMARY: The Federal Aviation Administration (FAA) gives notice that the FAA Administrator has issued a Revised Delegation of Authority to the Office of Dispute Resolution for Acquisition (ODRA) that modifies the existing Delegation of authority dated October 12, 2011. The FAA is publishing the text of the Revised Delegation of Authority, executed on March 19, 2014, so that it is available to interested parties.

FOR FURTHER INFORMATION CONTACT: Marie A. Collins, Dispute Resolution Officer and Administrative Judge for the Office of Dispute Resolution for Acquisition (AGC-70), Federal Aviation Administration, 800 Independence Street, SW., Room 323, Washington, DC 20591; telephone (202) 267-3290; facsimile (202) 267-3720.

SUPPLEMENTARY INFORMATION:

Background

In 1995 Congress, through the Department of Transportation Appropriations Act, Public Law 104-50, 109 Stat. 436 (November 15, 1995), directed the FAA “to develop and implement, not later than April 1, 1996, an acquisition management system that addressed the unique needs of the agency and, at a minimum, provided for more timely and cost effective acquisitions of equipment and materials.” In response, the FAA

developed the Acquisition Management System (AMS), a system of policy guidance for the management of FAA procurement, and as a part of the AMS, created the Office of Dispute Resolution for Acquisition (ODRA) to facilitate the Administrator's review of procurement protests and contract disputes (61 FR 24348). Subsequently, the FAA promulgated rules of procedure governing the ODRA's dispute resolution process by publishing a final rule entitled, Procedures for Protests and Contract Disputes; Amendment of Equal Access to Justice Act Regulations (effective June 28, 1999) (64 FR 32926). In addition to the rules of procedures, the ODRA operates pursuant to a series of delegations of authority from the Administrator. Over time, the authority delegated to the ODRA by the Administrator expanded to include the authority of the ODRA Director, among other things, "to execute and issue, on behalf of the Administrator, Orders and Final Decisions for the Administrator in all matters" under the ODRA's jurisdiction valued at not more than \$10 Million (*see* 63 FR 49151, 65 FR 19958-01, 69 FR 17469-02). Congress provided further confirmation as to the FAA's dispute resolution authority in the Vision 100-Century of Aviation Reauthorization Act of 2003, Public Law 108-176, 117 Stat.2490, (2003 Reauthorization Act), which expressly provided the ODRA with exclusive jurisdiction over bid protests and contract disputes under the AMS. Specifically, the 2003 Reauthorization Act provided at Subsection (b)(2)(4), under the title "Adjudication of Certain Bid Protests and Contract Disputes," that "[a] bid protest or contract dispute that is not addressed or resolved through alternative dispute resolution shall be adjudicated by the Administrator, through Dispute Resolution Officers or Special Masters of the Federal Aviation Administration Office of Dispute Resolution for Acquisition, acting pursuant to Sections 46102, 46104, 46105, 46106 and 46107 and shall

be subject to judicial review under Section 46110 and Section 504 of Title 5.” On January 12, 2011, the FAA published a notice of proposed rulemaking to reorganize and streamline the existing Procedures for Protests and Contracts Dispute, and harmonize them with current statutory and other authority (76 FR 2035). On September 7, 2011, the FAA adopted the proposed rule, publishing it as a final rule in the **Federal Register**, with an effective date of October 7, 2011 (76 FR 55217). On October 12, 2011, the FAA Administrator designated the Director and Dispute Resolution Officers of the ODRA as Administrative Judges for all matters within the ODRA’s jurisdiction; and delegated authority to the ODRA that superseded and replaced previous delegations of authority (76 FR 70527-02). On March 19, 2014, the Administrator executed a Revised Delegation of Authority that modifies the October 12, 2011 Delegation of Authority by replacing paragraph “i” of that Delegation with the following paragraph:

To execute and issue, on behalf of the Administrator, final Agency decisions and orders in all matters within the ODRA’s jurisdiction, provided that such matters involve either: (1) a bid protest concerning an acquisition having a minimum dollar value, including any option years, of not more than twenty million dollars (\$20,000,000.00); (2) a contract dispute involving a total amount to be adjudicated, exclusive of interest, legal fees or costs, of not more than ten million dollars (\$10,000,000.00); or (3) contests arising from public-private competitions under OMB Circular A-76. The dollar value limitations of this paragraph do not apply to orders issued pursuant to Paragraph b. hereof. This Delegation does not preclude the Director of the ODRA from requesting, in any matter before the ODRA, that the order setting forth the final decision of the FAA be executed by the Administrator.

The Revised Delegation further provides that all provisions of the October 12, 2011 Delegation not expressly modified by the Revised Delegation of Authority remain in full force and effect.

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Issued in Washington, DC, on April 11, 2014.

Jerome M. Mellody
Acting Chief Counsel

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